

REMARKS

Claims 5 through 14 continue to be in the case.

Claims 1 to 4 are being cancelled.

Claims are being amended.

The Office Action refers to the Abstract

The abstract of the disclosure is objected to because phrase that can be implied, such as "according to the present invention" should not be present therein. Correction is required. See MPEP § 608.01(b).

A revised Abstract of the Disclosure is attached.

The Office Action refers to the Specification.

The disclosure is objected to because of the following informalities: On page 7, line 8, "block head 8" should be --block head 7--. Further, on page 8, line 6, "longitudinal and" should be --longitudinal end--. Lastly, on page 9, line 13, "plate 13" should be --plate 16-- and on page 9, line 16, one of the two periods at the end thereof should be deleted. Appropriate correction is required

The present amendment provides for corrections of the specification as kindly pointed out by the Examiner.

The Office Action refers to Claim Objections.

Claim 4 stands objected to because of the following informalities: On line 1 of claim 4, "claim one" should be --claim 1--. Appropriate correction is required

The present amendment cancels claim 4.

The Office Action refers to Claim Rejections - 35 USC § 112.

Claims 1-4 and 7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In regard to claim 1, the specification has not adequately defined how the toothbrush and case are formed, i.e., the phrase "a portion of uniform material" (line 2 of claim 1) is not clear. For example, it is unclear as to whether or not this phrase indicates that the handle, brush and case are integrally formed from one piece of material or if these elements are made from the same material, but are

separately formed and then assembled. In regard to claims 3 and 7, it is unclear as to how the claimed device can be used, i.e., viewing Figure 1, should the case be hingedly attached to the block head, it does not appear that a user could safely use the device to brush teeth. It appears that the case would have to enter a user's mouth in order to enable the bristles to contact teeth and the size of the case would most likely inhibit the bristles from contacting all of the teeth and would also likely choke a user

Claims 1 to 4 have been cancelled. Claim 7 is being amended to obviate the rejection.

Claim 12 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regard to claim 12, it is unclear as to whether or not the rib defined therein is intended to refer to the rib defined in claim 10, or a different rib.

The rib of claim 12 is intended to refer back to the rib of claim 10.

The Office Action refers to Claim Rejections - 35 USC § 102.

Claims 1, 3 and 4 stand rejected under 35 U.S.C. 102(b) as being anticipated by Slater. In regard to claim 1, Slater discloses a "single use" toothbrush comprised

of uniform portion of material 6 forming a handle 30, a brush 14 and a "case" the bent portion of the device between the handle and brush. In regard to claim 3, the "case" "swings" relative to the brush (see the paragraph bridging columns 1 and 2). In regard to claim 4, the case "surrounds" the brush.

The present amendment cancels claims 1 through 4.

Claims 5, 6 and 14 stand rejected under 35 U.S.C. 102(b) as being anticipated by Tuseth. In regard to claim 5, Tuseth discloses a toothbrush comprised of a handle 12, a block head 13, a brush 16 attached to the blockhead and a case 23 attached to the blockhead for enclosing the brush. In regard to claim 6, toothpaste (disposed in sack 17) is positioned at the bottom of the case. In regard to claim 14, a plate 15 is disposed on the block head 13 wherein the bristles protrude therefrom.

Claim 5 has been amended to require a structurally stiffened, elongated handle. The structural stiffening is furnished by the elongated channel shape of the handle. The reference Tuseth fails to show a handle, which is structurally stiffened. Claims 6 and 14 depend on amended claim 5.

The Office Action refers to Claim Rejections - 35 USC § 103.

Claims 1, 2 and 4 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tuseth. Tuseth discloses a "single use" toothbrush comprised of a handle 12, a brush 16 and a case 23 filled with an agent (in sack 17) for cleaning teeth wherein the case surrounds the brush. Although the Tuseth reference does not disclose the materials used to make the brush, the Examiner takes official notice that such toothbrushes are commonly comprised of elements (i.e., bristles, handles, covers, etc.) that are formed from plastic materials in order to render the manufacturing of the device simple and inexpensive. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the Invention was made to make the various parts of the Tuseth brush from a plastic material in order to enable the device to be easily and inexpensively manufactured, especially since the Tuseth reference does disclose that the various components can be made from any suitable material (see column 3, lines 510). Should these various elements be made from plastic, it can be said that these elements are made from a "portion of uniform material".

The present amendment cancels claims 1 to 4.

Claim 7 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Tuseth in view of Oviatt. Although the case in the Tuseth device is not disclosed as being hinged to the blockhead, attention is directed to the Oviatt reference, which discloses another toothbrush wherein the cap 25 is hingedly attached to the toothbrush for the inherent benefit of enabling the cap to remain attached thereto and thereby

cannot be misplaced. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to hingedly attach the case to the toothbrush (at a convenient location) disclosed by Tuseth in order to enable the case the remained attached to the brush.

Applicant respectfully disagrees. Claim 7 depends on claim 5 of this application. Claim 5 requires "a case attachable to the block head and sealingly enclosing the brush."

The cap 25 of the Oviatt reference is not attachable to a block head and does not sealingly enclose a brush. The cap 25 of the Oviatt reference serves to close an opening of a handle construction of the Oviatt reference.

At best the Oviatt reference could teach to make a two part handle, however such construction has nothing to do with the present invention.

Claims 8-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tuseth in view of Levin. Although the Tuseth reference does not disclose the structure of the handle 12, attention is directed to the Levin reference, which discloses another toothbrush wherein the handle includes a channel having braces 30, 36 extending perpendicular thereto and a rib 18 extending in the direction of the

channel and perpendicular to a "floor" 46 of the channel wherein the rib connects the block head 12 and the "bottom" of the channel. Further, the width of the rib decreases from the channel to the block head. Such a handle renders the toothbrush safe in that the handle cannot be sharpened. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the handle in the Tuseth device as such in order to prevent the handle from being sharpened.

Applicant respectfully disagrees. The reference Levin at best shows a slotted bar as a handle, but not the elongated channel of claim 8. A possibility of sharpening is not an issue with the toothbrush of the present invention.

The Office Action refers to Allowable Subject Matter.

Claims 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant gratefully acknowledges the finding of allowable subject matter in claims 12 and 13. Claims 12 and 13 have now been formed as independent claims and are deemed to be fully allowable.

Conclusion

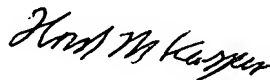
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Algorri reference is **cited for disclosing another toothbrush** having toothpaste in a case which covers the brush.

The reference Algorri indicates the state of the art at the time it was published, but it neither anticipates nor renders obvious the present application.

Reconsideration of all outstanding rejections is respectfully requested.

Entry of the present response is respectfully requested. All claims as submitted are deemed to be in form for allowance and an early notice of allowance is earnestly solicited.

Respectfully submitted,
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